IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.11.2007

CORAM :

THE HON'BLE MR. JUSTICE S.TAMILVANAN

A.S.No.532 of 1996
A.S.No.416 of 1996
and
Cross Obj. No.70 of 1998

A.S.No.532 of 1996

The Special Tahsildar
(Land Acquisition)
Adi Dravidar Welfare,
Vridhachalam. .... Appellant/Referring Officer

vs.

1. Sornambal @ Sornasundari

2. Selvaraj .... Respondents/Claimants

For Appellant : Mr.V.Ravi, Spl.G.P. (AS)

For Respondents : Mr.T.Dhanasekaran for
Mr.N.Mani Narayan for R1
Mrs.A.Nilaphar for
Mr.R.Subramanian for R2

A.S.No.416 of 1996
Sornambal @ Sornasundari .... Appellant/1st Claimant

vs.

1. The Special Tahsildar
(Land Acquisition)
Adi Dravidar Welfare,
Vridhachalam.

2. Selvaraj .... Respondents/Respondent/
Respondent/2nd Claimant

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For Appellant : Mr.T.Dhanasekaran for
Mr.N.Mani Narayanan

For Respondents : Mr.V.Ravi, Spl. G.P. (AS) for R1
Mrs.A.Nilaphar
for Mr.R.Subramanian for R2

Cross. Obj. No.70 of 1998 in A.S.No.532/96

Selvaraj .. Cross Objector/Respondent 2

vs.

1. The Special Tahsildar
(Land Acquisition)
Adi Dravidar Welfare,
Vridhachalam. ..Respondent/Appellant

2. Sornambal @ Sornasundari .. Respondent/Respondent

For Cross Objector : Mrs. A.Nilaphar
for Mr.R.Subramanian

For Respondents : Mr.V.Ravi, Spl.G.P. For R1
Mr. T.Dhanasekaran for
Mr.N.Mani Narayan for R2

Appeals and Cross Objection filed against the Judgment and Decree, dated 08.03.1995 made in L.A.O.P.No.121 of 1999 on the file of the Subordinate Judge, Vridhachalam.

JUDGMENT

This appeal in A.S.No.532 of 1996, A.S.No.416 of 1996 and Cross Objection in Cross. Objection No.70 of 1998 are arising out of the same award, passed in L.A.O.P.No.121 of 1989 on the file of the Subordinate Judge, Vridhachalam.

2. The appeal in A.S.No.532 of 1996 has been preferred by the Special Tahsildar, Land Acquisition, Adi Dravidar Welfare, Vridachalam. The first claimant in the award proceeding has preferred the appeal in A.S.No.416 of 1996 and the second claimant has preferred Cross Objection in Cross Obj. No.70 of 1998.

3. It is not in dispute that the land in R.S.No.24/3 measuring an extent of 2.63 acres and in R.S.No.24/6 measuring an extent of 1.37 acres in Budhamur Village, Vridhachalam was acquired by the Land Acquisition Officer, Special Tahsildar (ADW), Vridhachalam, for the

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purpose of providing house sites for houseless barbers and dhobies, for which Section 4(1) Notification under the Land Acquisition Act (herein after referred as the Act) was published on 03.11.1986. By award No.1/86-87, dated 03.11.1986, compensation was awarded by the Land Acquisition Officer at Rs.9,026/- per acre. Aggrieved by which, at request of the claimants, reference was made under Section 18 of the Land Acquisition Act. The Land Acquisition Tribunal / Subordinate Judge, Vridachalam, considering the evidence both oral and documentary and also the arguments of both sides, has decided the compensation at the rate of Rs.700/- per cent and accordingly, the compensation was awarded with 30% solatium, 12% interest and costs, as per the Act. Aggrieved by the Judgment and Decree passed by the Land Acquisition Tribunal, Referring Officer / respondent, has preferred the appeal in A.S.No.532 of 1996. The first claimant has preferred appeal in A.S.No.416 of 1998 for enhancement of compensation and the second claimant has preferred Cross Objection in Cross Obj. No.70 of 1998 for enhancement of compensation.

4. It is seen that before the Land Acquisition Tribunal, the first claimant Sornambal @ Sornasundari was examined as P.W.1 and the second claimant Selvaraj was examined as P.W.2. In support of their contention, for enhanced compensation, certified copy of a sale deed, dated 05.09.1982 and certified copy of the sale deed, dated 22.09.1982 were marked as Exs.A.1 and A2, apart from the sketch, relating to Budhamur Village as Ex.A.3. On the side of the respondent, the Land Acquisition Officer was examined as R.W.1 and documents Exs.R.1 to R.11 were marked.

5. Mr.V.Ravi, learned counsel appearing for the Referring Officer / respondent would contend that the Land Acquisition Tribunal has fixed exorbitant amount of compensation at the rate of Rs.70,000/- per acre for three acres of land, after deducting 25% towards developmental expenses and hence, the same has to be reduced, based on the evidence available on record.

6. Per contra, Mr.T.Dhanasekaran, learned counsel appearing for the first claimant and Mrs.A.Nilaphar, learned counsel appearing for the second claimant, who has filed cross objection, contended that the lands referred in Exs.A.1 and A.2 sale deeds are similarly placed lands, situated nearby the acquired land. Under Ex.A.1 on 05.09.1982 in R.S.No.21/1, 8 ½ cents of land was purchased by one Dr.Ramamoorthy from Balasubramaniam, an advocate for a sum of Rs.10,000/- at the rate of Rs.1,176.40/- per cent. Under Ex.A.2, dated 22.09.1982, one Meenakshiammal had purchased 5 ½ cents of land from one Kaliamoorthy at the rate of Rs.818.18/- per cent. According to the learned counsel appearing for the claimants, the Trial Court while computing compensation could not have deducted 25% of the market value.

7. Admittedly, though the sale deeds were executed and registered, prior to the date of 4 (1) Notification, under the Act,

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as contended by the learned counsel for the claimants, considering the proposed development of forming roads and reserve sites, 25% of the acquired land cannot be left without any compensation. Acquiring 25% of land without paying any compensation would not be sustainable in law.

8. Mr.V.Ravi, learned Special Government Pleader appearing for the Referring Officer submitted that 25% of the market value, on the basis of the market value of a house site or developed land could be deducted, while computing the market value of a dry land yet to be developed as house site, however, in the impugned judgment, it has been wrongly stated as 25% deduction in the acquired land, instead of its market value, while such value is taken for deciding the market value of dry land.

9. It is quire clear that while deciding the market value of a dry land, on the ground that they have to provide house sites by forming lay out, 25% of the land cannot be deducted, since it would amount to acquiring 25% of the land, without paying any compensation. On the other hand, if the data land happens to be a house site and the acquired land is a dry land or undeveloped land to be converted as house site, proposed expenses towards such development could be considered for fixing the market value of the land.

10. It is not in dispute that the Vridhachalam – Cuddalore main road is on the Northern side of the acquired land, as well as the lands referred to under Exs.A.1 and A.2. The date of sale deed taken for consideration by the Referring Officer is far away on the south of the aforesaid lands. As per Exs.A.1 and A.2, the lands were stated only as dry lands and not house site of any lay out. Though, under the sale deed, Exs.A.1 and A.2, only lesser extent of 8 ½ cents and 5 ½ cents, respectively have been sold. Admittedly, the said sales have taken place on 05.09.1982 and 22.09.1982 prior to the 4 (1) Notification, under the Act, which had taken place on 03.11.1986. The lands relating to Exs.A.1 and A.2 are located on the South of Vridhachalam – Cuddalore main road and North of Vridhachalam – Chidambaram main road nearby the acquired land. It is also not in dispute that Periyar Nagar Housing Board, Residential houses are also situated very near to the acquired land, apart from Cinema Theater, Taluk Office, Fire Service Office and also Sugarcane Research Institute.

11. Though, it was contended by the learned counsel appearing for the respondent that there was a later development, it has been admitted by the learned Acquisition Officer, who was examined as R.W.1 that Periyar Nagar was formed even in the year 1973 itself nearby the acquired land, though the Notification under Section 4 (1) of the Act was published only on 03.11.1986.

12. The learned counsel appearing for the claimants in support of

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their contention relied on the decision reported in AIR 2004 Supreme Court 2006 (Kiran Tandon Vs. Allahabad Development Authority and another). which reads as follows:

> "However, in construction of multi-storeyed residential flats as considerable portion of the land has to be left out for internal roads, sewer line, open space etc. In such circumstances the High Court was justified in directing deduction of 20 per cent from the market value of the land."

13. It is not in dispute that in the instant case, the Land Acquisition Tribunal has deducted 25% of the market value of the land, which is contrary to the Full Bench decision of the Honourable Apex Court referred above. If there is any special reason, the deduction may be more than 20%. There is no special reason available on the evidence to reduce the market value of the acquired land more than 20% on the value of the data land. In the light of the decision reported in AIR 2004 SC 2006 (cited supra), considering the facts and circumstances, I find it reasonable to allow the deduction of 20% from the market value of the land towards departmental charges, instead of 25% as decided by the Tribunal. Accordingly, I find it reasonable to dismiss the appeal preferred by the Land Acquisition Officer in A.S.No.532 of 1976 and party allow the A.S.No.416 of 1996 and Cross Obj. No.70 of 1998 preferred by the claimants.

14. Considering Ex.A.1, sale deed, the value of the land could be decided reasonable at Rs.1,000/- per cent and after deducting 20% towards developmental expenses, the market value of the acquired land could be computed at Rs.800/- per cent. Hence, I am of the considered view that to meet the ends of justice, the compensation awarded for the acquired lands has to be enhanced at the rate of Rs.800/- per cent and accordingly, the compensation shall be computed for the acquired lands and the claimants are also entitled to get proportionate solatium, interest and costs.

15. In the result, appeal in A.S.No.532 of 1996 is dismissed and appeal in A.S.No.416 of 1996 and Cross Objection in Cross Obj. No.70 of 1998 are partly allowed, as stated above. However, there is no order as to costs.

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To

1.The Subordinate Judge
Vridhachalam.

2.The Record Keeper,
V.R. Section,
High Court,
Madras.

1 CC to the Government Pleader, SR NO.69666.

1 CC To Mr.R.Subramanian, Advocate, SR NO.69731.

1 CC to the Government Pleader, SR NO.69665.

A.S.No.532 of 1996
A.S.No.416 of 1996
and
Cross Obj. No.70 of 1998.

MRD(CO)
PMK/6.8.08.

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